

27625.00BWO3

Firm No. 412

Document #: 778601

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

ANNA SZYMCAK and CARYL CLEMENT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.: 07 C 6338
	)	
OHIO CASUALTY GROUP/WEST AMERICAN	)	
INSURANCE COMPANY,	)	Judge: Joan H. Lefkow
	)	
Defendant.	)	Magistrate Judge Valdez

**DEFENDANT'S REQUEST FOR DIRECTION  
ON HOW TO COMPLY WITH THE JUNE 18, 2008 RULING**

NOW COMES the defendant, WEST AMERICAN INSURANCE COMPANY, ("West American"), by and through its attorneys, Bradley C. Nahrstadt and Christina D. Harrison of Williams, Montgomery & John Ltd., seeks direction on how it can comply with the Court's June 18, 2008 ruling:

1. On May 21, 2008, counsel for the plaintiffs filed a motion for rule to show cause against Dr. Abigail Sivan and a motion to compel and for sanctions against West American. The focus of the motions was to obtain raw data and related analysis underlying tests conducted by Dr. Sivan, an expert retained by West American in the underlying arbitration. Dr. Sivan did not respond to the motion for rule to show cause. West American filed a response that objected to the motion to compel on multiple legal grounds.

2. On June 18, 2008, this Court granted the motion to compel and denied the motion for rule to show cause against Dr. Sivan. The Court ordered disclosure of the requested raw data to plaintiff's counsel. This ruling leaves West American between a rock and a hard place.

3. As West American stated in its response to the motion to compel, it is not in possession of the sought after material. Dr. Sivan has refused to turn the requested raw data and related analysis over to West American or the plaintiffs. Dr. Sivan believes that Illinois law, 740 ILCS §110/3(c), restricts the disclosure of the sought-after material to only another licensed psychologist. While the June 18<sup>th</sup> Order found that West American could not rely on Section 110/3, the Court's Order did not address whether Dr. Sivan must also ignore this Illinois statute. West American is left with no means to comply with the Court's June 18<sup>th</sup> Order.

WHEREFORE, the defendant, WEST AMERICAN INSURANCE COMPANY, respectfully requests that this Honorable Court provide West American with direction on how to comply with the Court's June 18, 2008 Order and any other relief that this Honorable Court deems just and appropriate.

Respectfully submitted,

WEST AMERICAN INSURANCE COMPANY

By: /s/ Christina D. Harrison

Bradley C. Nahrstadt  
Christina D. Harrison  
Counsel for West American  
Williams Montgomery & John Ltd.  
20 North Wacker Drive, Suite 2100  
Chicago, Illinois 60606  
(312) 443-3200

**PROOF OF SERVICE**

I, Christina D. Harrison, an attorney, certify that on June 24, 2008, service of **Defendant West American Insurance Company's Request for Direction On How To Comply With The June 18, 2008 Ruling** was accomplished pursuant to Rule 5(b)(2)(D) and Local Rule 5.9 through the District Court's Electronic Filing system, which will send notice electronically to:

Joseph R. Curcio, Esq.  
Curcio Law Offices  
161 N. Clark Street, Suite 2550  
Chicago, Illinois 60601

Counsel for Plaintiffs  
Anna Szymczak and Caryl Clement

By: /s/ Christina D. Harrison